

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #8	CCRB Case #: 201510755	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/16/2015 7:15 PM	Location of Incident: 71st Precinct Stationhouse	Precinct: 71	18 Mo. SOL 6/16/2017	EO SOL 6/16/2017	
Date/Time CV Reported Thu, 12/17/2015 1:13 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/23/2015 11:11 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Frank Bulzoni	02681	936258	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Alfred Kelley	01974	924682	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Frank Bulzoni	Abuse: PO Frank Bulzoni threatened to arrest § 87(2)(b)	

### Case Summary

On December 16, 2015 at approximately 7:15PM, § 87(2)(b) went to the 71<sup>st</sup> Precinct stationhouse, in Brooklyn, to file a complaint against a Community Board member who had been harassing her via email. § 87(2)(b) went to the second floor to the Community Affairs office and spoke with PO Frank Bulzoni about her case. PO Bulzoni told § 87(2)(b) that he could not take her complaint and the conversation turned to § 87(2)(b)'s past arrest by PO Bulzoni. § 87(2)(b) and PO Bulzoni began arguing, which led to Sergeant Alfred Kelley coming out to speak with them. PO Bulzoni and Sgt. Kelley told § 87(2)(b) to leave the stationhouse. PO Bulzoni allegedly stated, "You need to get out. And if you don't get out, I will arrest you." § 87(2)(b) responded with, "On what charge?" PO Bulzoni allegedly stated, "For trespassing." (**Allegation A**) § 87(2)(b) left the stationhouse on her own accord; no arrest was made and no summons was issued.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation both in her phone statement with the CCRB on December 28, 2015 (Board Review 01) and in her in-person interview at the CCRB on January 8, 2016. (Board Review 02)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the fifth CCRB complaint in which § 87(2)(b) has been named a victim and the second complaint with FADO allegations. § 87(2)(b)
- PO Bulzoni has been an officer for 11 years and this is the 13<sup>th</sup> CCRB complaint filed against him. (Board Review 04) PO Bulzoni has one substantiated allegation against him for discourtesy. (CCRB#201100781) The NYPD disposed this allegation as Command Discipline B. In 2008, an allegation of "threat of arrest" was made against PO Bulzoni and it was ruled unsubstantiated. (CCRB#200804936)

### Findings and Recommendations

#### Allegation A –Abuse of Authority: PO Frank Bulzoni threatened to arrest § 87(2)(b)

In her original call with IAB on December 16, 2015, § 87(2)(b) stated that she went to the 71<sup>st</sup> Precinct to file a complaint and spoke with PO Bulzoni and an unknown officer (later identified by § 87(2)(b) in a photo array as Sgt. Kelley.) (See Board Review 05 for recording and Board Review 06 for transcription.) PO Bulzoni told IAB that PO Bulzoni threatened to arrest her for trespassing and that Sgt. Kelley told her to leave the precinct. In her phone statement with the CCRB on December 28, 2016, § 87(2)(b) corroborated this version of events. (Board Review 01)

On January 8, 2016, § 87(2)(b) testified at the CCRB in regards to this incident. (Board Review 02) On December 16, 2015, § 87(2)(b) came in to the 71<sup>st</sup> Precinct stationhouse to file a complaint against a member of the Community Board who had been harassing her via email. § 87(2)(b) was directed to speak with Community Affairs officer, PO Bulzoni. PO Bulzoni was not in the stationhouse at the time so she waited about 30 minutes for him to arrive. § 87(2)(b) knew who PO Bulzoni was because he is a Community Affairs officer and she is a community activist. § 87(2)(b) and PO Bulzoni had seen each other a few times. § 87(2)(b) was arrested by PO Bulzoni and other Community Affairs officers several times in regards to her work as a community political activist. PO Bulzoni was § 87(2)(b)'s arresting officer at her last arrest on June 10, 2015.

When PO Bulzoni arrived at the stationhouse, § 87(2)(b) went upstairs to speak with him. The door to the room where they spoke was right by the stairway. PO Bulzoni was calm and respectful when § 87(2)(b) first spoke with him. There was another community affairs officer in the upstairs room as well, Sgt. Kelley. There was a wall between Sgt. Kelley and the desk where PO Bulzoni was speaking with § 87(2)(b). § 87(2)(b) was not sure if anyone else was with Sgt. Kelley in the subsection of the room behind the wall, but Sgt. Kelley could hear what was going on with her and PO Bulzoni.

PO Bulzoni was skeptical and was treating § 87(2)(b) like her complaint was not valid. § 87(2)(b) never saw PO Bulzoni speak on the phone at any point or ask any other officer what to do with her complaint. PO Bulzoni said that he would have to check with his counsel in order to see if he could go through with processing the complaint. § 87(2)(b) responded to this by saying, “Oh, like the way you checked about my arrest? You called up someone and asked if it was valid for you to arrest me and the judge obviously said if you were violating my rights. Now you’re going to do the same thing. You’re going to refer to the same people and ask them if my complaint now is a valid complaint.” PO Bulzoni and § 87(2)(b) argued over the legality of her past arrest; PO Bulzoni insisted it was legal while § 87(2)(b) stated that it was not.

§ 87(2)(b) changed the subject back to her complaint. By this point, § 87(2)(b) was very upset because she believed that PO Bulzoni would not take her complaint out of a bias PO Bulzoni had against her. § 87(2)(b) told PO Bulzoni that she believed these emails were racially motivated because they were sent by a white man. At this point, PO Bulzoni started to raise his voice and get angry in response to this; when PO Bulzoni raised his voice, so did § 87(2)(b). PO Bulzoni told her that he wasn’t going to take her complaint.

PO Bulzoni then told § 87(2)(b) that she needed to “Leave my precinct.” § 87(2)(b) said “Excuse me, I believe this is not your precinct. I believe it belongs to the people.” PO Bulzoni said, “No, it’s my precinct. You need to get out. And if you don’t get out, I will arrest you.” § 87(2)(b) asked, “On what charge?” PO Bulzoni responded, “Trespassing.” § 87(2)(b) then lowered her voice to a normal speaking tone and said, “Oh, that’s gonna look really good for you. A resident comes in to the precinct and gets arrested for trespassing? That’s gonna look really good for you.” PO Bulzoni responded, “I don’t care. You need to get out; I will arrest you.” PO Bulzoni threatened to arrest § 87(2)(b) four or five times.

§ 87(2)(b) started gathering her belongings to leave when Sgt. Kelley came from behind his desk. Sgt. Kelley said, “Yes, § 87(2)(b) get out of this precinct and don’t ever come back.” § 87(2)(b) picked up her stuff, walked down the stairs, and left the precinct. The officers continued yelling at § 87(2)(b) as she opened the door to the office and left, so people who were on the first floor of the precinct could probably hear what was going on. § 87(2)(b) was yelling back at the officers as she left, but she could not recall specifically what she was yelling besides, “I’m leaving.” Officers on the first floor of the stationhouse were looking at § 87(2)(b) because of the yelling but nobody said anything to her. § 87(2)(b) was upstairs for a total of 10-15 minutes.

In his testimony at the CCRB, Sgt. Kelley stated that he has known § 87(2)(b) for about two years and has interacted with her on 15-20 separate occasions. (Board Review 07) Sgt. Kelly has participated in arresting § 87(2)(b) twice. Sgt. Kelley stated that on the day of the incident, he had come into the Community Affairs office while PO Bulzoni was speaking with § 87(2)(b). While Sgt. Kelley did not originally speak to § 87(2)(b) he did overhear parts of their conversation. § 87(2)(b) showed PO Bulzoni the emails and PO Bulzoni was not sure whether they classified as harassment. PO Bulzoni took the emails to Sgt. Kelley’s desk and showed the emails to him to get his opinion on whether these emails qualified as aggravated harassment. The emails came from § 87(2)(b). PO Bulzoni was very calm during the initial part of the conversation. Sgt. Kelley and PO Bulzoni told § 87(2)(b) that they would call their legal department and see what they say and that if legal said it was aggravated harassment, they would go arrest the man responsible.

Upon hearing this, § 87(2)(b) went “berserk” and started calling Sgt. Kelley and PO Bulzoni misogynists and racists. § 87(2)(b) accused the officers of being on § 87(2)(b) side. § 87(2)(b) was yelling at the time; PO Bulzoni probably raised his voice because he got a little emotional; § 87(2)(b) had called PO Bulzoni a racist several times before and he doesn’t appreciate it. § 87(2)(b) kept screaming at PO Bulzoni. At one point, Sgt. Kelley said, § 87(2)(b) this is going nowhere. I think it’s time for you to leave. You can come back and we can discuss this another time when you’re more calm about this.” Sgt. Kelley told § 87(2)(b) that if she continued this type of behavior, she would have to be arrested. It was at this point that § 87(2)(b) left and the interaction ended. As § 87(2)(b) was leaving, she continued to yell at the officers as she went down the stairs. Neither Sgt. Kelley nor PO Bulzoni yelled at § 87(2)(b) as she was leaving. The entire interaction lasted about five minutes.

If she had continued yelling and being noncompliant, § 87(2)(b) could have been arrested for obstructing governmental administration, because while § 87(2)(b) was screaming, Sgt. Kelley and PO Bulzoni couldn’t get any work done. Sgt. Kelley could not recall if PO Bulzoni ever said that § 87(2)(b) could be arrested for trespassing. § 87(2)(b) wasn’t doing anything that was classified as trespassing.

PO Bulzoni has the following narrative in his memo book pertaining to this incident, at 7:15PM, PO Bulzoni arrived at the 71st Precinct Stationhouse to speak to § 87(2)(b) in regards to emails from § 87(2)(b). At 8:00PM, “After speaking with Legal Dept. Kerry of Legal, it was deemed that emails although sarcastic in nature and not very nice (rude); they are not threatening in nature and there is no Aggravated Harassment for a report to be taken.” At 8:10PM, “After explaining this to § 87(2)(b) she told me while screaming at me that I am white and the person in question is white and that all whites stick together and I am a racist pig. I told § 87(2)(b) to leave the precinct as there was no report to take and I had to go back to Armory Detail.” (Board Review 08)

In his interview at the CCRB, PO Bulzoni stated that he has known § 87(2)(b) for about a year and has had 12-14 interactions with her. (Board Review 09) § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Bulzoni stated that on the day of the incident, he brought § 87(2)(b) up to the community affairs office and she told him about his complaint. PO Bulzoni examined the emails, which were “rude” in nature, but he did not feel that they classified as aggravated harassment. After consulting with Sgt. Kelley, PO Bulzoni called the legal department, who confirmed PO Bulzoni’s idea that these emails did not qualify as aggravated harassment. PO Bulzoni is not sure if § 87(2)(b) overheard his conversation with legal, but he did not think that she did. PO Bulzoni explained to § 87(2)(b) that he could not take the report because the emails did not qualify as harassment. § 87(2)(b) did not like this answer as she wanted a report taken.

At this point, § 87(2)(b) became very agitated and stood up. She said, “Are you guys gonna falsely arrest me like you did a hundred times before?” § 87(2)(b) stated something to the effect of, “You’ll falsely arrest me but you won’t take a report for me.” PO Bulzoni responded to this saying, § 87(2)(b) we never falsely arrested you before. We have summonsed you for things you’ve done.” Every time that § 87(2)(b) was arrested or summonsed, PO Bulzoni’s legal team was also present to ensure that everything was being handled according to the law.

This was the point where § 87(2)(b) started “screaming at the top of her lungs.” § 87(2)(b) called PO Bulzoni a “racist pig” and said “all white people stick together.” § 87(2)(b) cursed at PO Bulzoni, but he could not recall the specific curses that she used. This yelling alerted Sgt. Kelley, who came out from behind a file cabinet to speak to § 87(2)(b). § 87(2)(b) saw Sgt. Kelley and asked, “Why are you here? Are you here to arrest me?” Sgt. Kelley responded, “No, § 87(2)(b) I’m here to see what’s going on.” Sgt. Kelley said, § 87(2)(b) what’s the matter? Why are you yelling?”

Sgt. Kelley told § 87(2)(b) “§ 87(2)(b) there’s nothing we can take.” § 87(2)(b) started cursing the officers out and asked, “Are you going to arrest me? Are you going to arrest me like you falsely arrested me all those other times?” Sgt. Kelley said, “No one’s going to arrest you. I’m trying to conduct business behind the file cabinet. You are technically committing OGA but no one’s going to arrest you. Leave the precinct.” PO Bulzoni also told § 87(2)(b) “Leave the precinct.” PO Bulzoni and Sgt. Kelley asked § 87(2)(b) multiple times to leave the precinct.

At this point, § 87(2)(b) left the precinct on her own accord. § 87(2)(b) was yelling and cursing down the stairs as she left. After § 87(2)(b) had left the precinct, PO Bulzoni returned to his detail at the Armory. PO Bulzoni never said that he would arrest § 87(2)(b). PO Bulzoni does not recall saying that § 87(2)(b) could be arrested for trespassing. Hypothetically, § 87(2)(b) could have been arrested for trespassing because she was told to leave the building and did not have any business being there anymore.

Police Department V. Grandstaff, OATH Index No. 79085/03 (2004) (Board Review 10) finds that a threat of arrest made to calm a potentially aggressive situation or in response to a perceived violation of the law does not constitute misconduct.

It is undisputed by all parties that on the day of the incident, § 87(2)(b) came into the 71<sup>st</sup> Precinct stationhouse and argued with PO Bulzoni about the validity of her complaint. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Squad: \_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Pod Leader: \_\_\_\_\_  
Title/Signature                      Print                      Date

Attorney: \_\_\_\_\_  
Title/Signature                      Print                      Date